

NATIONAL ORGANIC PROGRAM DRAFT COMPLIANCE AUDIT CHECKLIST

3/12/02

Unless otherwise stated, the term:

- “Sold,” means “sold, labeled, or represented.”
- “Organic,” means “100 percent organic,” “organic,” and “made with organic (specified ingredients or food group(s)).”
- “Certifying agent,” means a State government or private business that is accredited or applying for accreditation.
- “Applicants” or “clients,” means producers, harvesters or handlers who use the services of a certifying agent.
- “State official,” means “State organic program’s governing State official.”
- “Regulations” means the Organic Food Production Act and the regulations in 7CFR 205.
- “Procedure” means the total certification procedure employed by the certifying agent or a specific procedure to address an individual item

Subpart B – Applicability

What has to be certified

§205.100(a) Does the certifying agent advise clients that, except for exempt or excluded operations, each production or handling operation or portion of an operation that produces or handles crops, livestock, livestock products, or other agricultural products that are intended to be sold as “organic” **must** be certified and **must** meet all other applicable requirements of the National Organic Program?

Guidance: All certifying agents, foreign and domestic, **must** provide this information to clients who intend to sell products in the U.S.

§205.100(b) This section states that a certifying agent’s clients are automatically certified to the NOP when the agent becomes accredited. In the next annual inspection, clients would have to be in compliance with the NOP regulation. This allowance is only in effect during the implementation period.

Guidance: The certifying agent needs to know this; the clients need to be informed of the transition to the regulations.

§205.100(c)(1) Does the certifying agent advise clients that any operation that knowingly sells or labels a product as organic, except in accordance with the regulations, shall be subject to a civil penalty of not more than \$10,000 per violation?

§205.100(c)(2) Does the certifying agent advise clients that any operation that makes a false statement under the Act (e.g., mislabeling organic products) to the Secretary, a State official, or an accredited certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code?

Exemptions and Exclusions from Certification

Guidance: Exempt means exempt under the law.

§205.101(a) Does the certifying agent have a verifiable procedure for identifying the following operations that are exempt from certification and submission of an organic system plan?

- Any production or handling operation with gross agricultural income from organic sales total \$5,000.00 or less annually.
- A handling operation that is a retail food establishment or portion of retail food establishment that handles but does not process organically produced agricultural products.
- A handling operation or portion of handling operation that handles agricultural products that contain less than 70 percent organic ingredients (by total weight of the finished product, excluding water and salt).
- A handling operation or portion of handling operation that only identifies organic ingredients on the information panel.

Can the certifying agent provide information for exempt handlers who only handle products containing less than 70 percent organic ingredients or only list organic ingredients on the information panel that includes:

- Provisions for the prevention of organic products commingled with nonorganic and prevention of contact with prohibited substances;
- Labeling provisions; and
- Recordkeeping provisions in §205.101 (c)?

Does the certifying agent **inform** exempt operations that products from an exempt production operation cannot be used as ingredients identified as organic in processed products produced by a certified handling operation?

§205.101(b)(1)(i)(ii) Does the certifying agent have a verifiable procedure for identifying the following operations that are excluded from the NOP regulatory requirements?

Guidance: Excluded operations are excluded by USDA policy.

- A handling operation or portion of a handling operation and the operation or portion of the operation only sells organic agricultural products labeled as “organic” provided such products are packaged or otherwise enclosed in a container prior to being received or acquired by the operation; and remain in the same package or container and are not otherwise processed while in the control of the handling operation.
- A retail food establishment or portion of a retail food establishment that processes, on the premises of the retail food establishment, raw and ready-to-eat food from agricultural products that were previously labeled as “organic.”

Does the certifying agent advise excluded handling operations that they **must** comply with the requirements to prevent commingling and contact with prohibited substances and the requirements for labeling in §205.310?

§205.101(c) Does the certifying agent explain which exempt handling operations, as identified by §205.101(a) (3-4), **must** maintain for 3 years records sufficient to:

- Prove that ingredients identified as organic were organically grown, and
- Verify quantities produced from organic ingredients?

Records **must** be available to representatives of the Secretary and State officials.

Use of the term, “organic”

§205.102 - §205.102(a) - §205.102(b)

Guidance: Determination of certifying agent’s ability to ensure clients’ conformity to these sections will be the result of the entire accreditation audit. No review is required on these individual sections.

Recordkeeping by certified operations

§205.103(a) Does the certifying agent **require** its clients to maintain records concerning the production, harvesting, and handling of agricultural products that are or that are intended to be sold as “organic?”

§205.103(b) Does the certifying agent have a verifiable procedure to ensure:

- Clients’ records are adapted to the particular business that the certified operation is conducting;
- Clients’ records fully disclose all activities and transactions of the certified operation in sufficient detail as to be readily understood and audited;

- Clients' records are maintained for not less than 5 years beyond their creation; and
- Clients' records are sufficient to demonstrate compliance with the regulations?

§205.103(c) Does the certifying agent advise clients that a certified operation **must** make its records available for inspection and copying during normal business hours by authorized representatives of the Secretary, State official, and the certifying agent?

§205.104 [Reserved]

Verifying allowed and prohibited substances, methods, and ingredients

§205.105(a) Does the certifying agent have a verifiable procedure to ensure that the agricultural products sold by its clients as organic are produced and handled:

- In compliance with the National List;
- Without the use of excluded methods, except for vaccines, provided that the vaccines are approved;
- Without the use of ionizing radiation; and
- Without the use of sewage sludge?

§§205.106 – 205.199 [Reserved]

Subpart C - Organic Production and Handling Requirements

General

§205.200 Does the certifying agent **require** that its clients' production practices maintain or improve the natural resources of the operation, including soil and water quality?

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that standards have been met. They will do this by verifying the information in the application and inspection report.

Organic production and handling system plan

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that standards have been met. They will do this by verifying the information in the application and inspection report.

§205.201(a) Does the certifying agent **require** its clients to develop an organic system plan that is agreed to by the producer or handler and the certifying agent and that meets the requirements

set forth in the regulations? Does the certifying agent **require** the producer's organic system plan to include:

- A description of the practices and procedures to be performed and maintained, including the frequency with which they will be performed;
- A list of each substance to be used as a production or handling input, indicating its composition, source, locations(s) where it will be used, and documentation of commercial availability, as applicable;
- A description of the monitoring practices and procedures to be performed and maintained, including the frequency with which they will be performed, to verify that the plan is effectively implemented;
- A description of the recordkeeping system implemented to comply with the requirements established in §205.103;
- A description of the management practices and physical barriers established to prevent commingling of organic and nonorganic products on a split operation and prevent contact of organic production and handling operations and products with prohibited substances; and
- Additional information deemed necessary by the certifying agent?

§205.201(b) Does the certifying agent **inform** its clients that they may substitute a plan prepared to meet the requirements of another Federal, State, or local government regulatory program for the organic system plan as long as the plan meets all the requirements of the NOP regulations?

Land requirements

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that standards have been met. They will do this by verifying the information in the application and inspection report.

§205.202 Does the certifying agent **require** that field or farm parcels from which harvested crops are intended to be sold as organic meet the following standards?

- Be managed in accordance with the crop production standards -- see §§205.203 through 205.206;
- Have had no prohibited substances, as listed in §205.105, applied to it for a period of 3 years immediately preceding harvest of the crop; and
- Have distinct, defined boundaries and buffer zones to prevent contact with prohibited substances applied to adjoining land not under organic management?

Soil fertility and crop nutrient management practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that standards have been met. They will do this by verifying the information in the application and inspection report.

§205.203(a-c) Does the certifying agent **require** its clients to:

- Select and implement tillage and cultivation practices that maintain or improve the physical, chemical, and biological condition of the soil and minimize soil erosion;
- Manage crop nutrients and soil fertility through rotations, cover crops, and the application of plant and animal materials;
- Manage plant and animal materials to maintain or improve soil organic matter content in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, pathogenic organisms, heavy metals, or residues of prohibited substances. Animal and plant materials include:

--Raw animal manure that is composted **unless**: used to grow a crop not eaten by humans; or applied at least 120 days prior to harvest if food touches soil; or applied at least 90 days prior to harvest if food does not touch soil.

--Composted plant and animal materials produced through a process that: established an initial C:N ratio of between 25:1 and 40:1; maintained a temperature of 131-170 degrees for 3 days using an in-vessel or static aerated pile system; or maintained a temperature of 131-170 degrees for 15 days, using a windrow composting system where the materials must be turned at least 5 times.

--Uncomposted plant materials.

§205.203(d) Does the certifying **allow** its clients to apply the following?

- A crop nutrient or soil amendment included on the National List.
- A mined substance of low solubility.
- A mined substance of high solubility, if it is in compliance with the National List.
- Ash from burned plant or animal material, if it is on, or in compliance with, the National List.
- Chemically altered plant or animal material that is included on the National List.

Does the certifying agent **prohibit** its clients from:

- Using any fertilizer or composted plant material that contains a synthetic substance not

included on the National List as allowed in crop production;

- Using sewage sludge (biosolids); and
- Burning as a means of crop disposal for crop residues produced on the operation, except for burning used to suppress the spread of disease or stimulate seed germination?

Seed and planting stock practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

Guidance: Hard copies of producer's seed receipts and /or documentation of search under commercial availability requirements.

§205.204 Does the certifying agent **require** its clients to use organically grown seeds, annual seedlings, and planting stock, except under the following conditions?

- Nonorganically produced, untreated seeds, and planting stock may be used when an equivalent organically produced variety is not commercially available (no exception for sprouts).
- Nonorganically produced seeds and planting stock treated with a substance included on the National List may be used when an equivalent organically produced or untreated variety is not commercially available.
- Nonorganically produced annual seedlings may be used when a temporary variance has been granted -- see §205.290(a)(2).
- Nonorganically produced planting stock that has been under organically managed for a period of no less than one year may be used to produce a perennial crop.
- Seeds, annual seedlings, and planting stock treated with prohibited substances may be used when the application of the materials is a requirement of Federal or State phytosanitary regulations.

Crop rotation and practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.205 Does the certifying agent **require** its clients to implement a crop rotation including, but not limited to, sod, cover crops, green manure crops, and catch crops that:

- Maintain or improve soil organic matter content;
- Provide for pest management in annual and perennial crops;
- Manage deficient or excess plant nutrients; and
- Provide erosion control?

Guidance: Crop rotations vary geographically; what is appropriate for one climate may not be sufficient for another. When there is doubt, auditors should contact the NOP specialist.

Crop pest, weed, and disease management practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.206(a) Does the certifying agent **require** its clients to use management practices to prevent crop pests, weeds, and diseases including, but not limited to:

- Crop rotation and soil and crop nutrient management practices as provided for in §§205.203 and 205.205;
- Sanitation measures to remove disease vectors, weed seeds, and habitat for pest organisms; and
- Cultural practices that enhance crop health, including selection of plant species and varieties with regard to suitability to site-specific conditions and resistance to prevalent pests, weeds, and diseases?

Guidance: The following practices, §205.206(b)(c)(d), are **not** required. This section is provided as guidance to auditors, certifying agents, and producers to provide examples to verify the requirements stated in (a) above.

§205.206(b) Does the certifying agent **allow** its clients to control pest problems through mechanical or physical methods including, but not limited to:

- Augmentation or introduction of predators or parasites of the pest species;
- Development of habitat for natural enemies of pests; and
- Nonsynthetic controls such as lures, traps, and repellents?

§205.206(c) Does the certifying agent **allow** its clients to control weed problems through:

- Mulching with fully biodegradable materials;

- Mowing;
- Livestock grazing;
- Hand weeding and mechanical cultivation;
- Flame, heat, or electric measures; and
- Plastic or other synthetic mulches, provided that they are removed from the field at the end of the growing or harvest season?

§205.206(d) Does the certifying agent **allow** its clients to control disease problems through:

- Management practices which suppress the spread of disease organisms; and
- Application of nonsynthetic biological, botanical, or mineral inputs?

§205.206(e) When the practices provided above are insufficient to prevent or control crop pests, weeds, and diseases, does the certifying agent **allow** its clients to use a biological or botanical substance or a substance included on the National List in crop production to prevent, suppress, or control pests, weeds, or diseases, provided that conditions for using the substances are included in the organic system plan?

§205.206(f) Does the certifying agent **prohibit** its clients from using lumber treated with arsenate or other prohibited materials for new installations or replacement purposes in contact with soil or livestock?

Wild-crop harvesting practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.207 Does the certifying agent **require** its clients to comply with the following practices for the harvesting of an organically produced wild crop?

- Wild crops **must** be harvested from a designated area that has had no prohibited substances applied to it for a period of 3 years immediately prior to harvest.
- Wild crops **must** be harvested in a manner that ensures that such harvesting or gathering will sustain the growth and production of the wild crop.

§§205.208 – 205.235 [Reserved]

Origin of livestock

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.236(a) Does the certifying agent **require** that organically managed livestock **must** be under continuous organic management from the last third of gestation, except for the following?

- Poultry or edible poultry products **must** be from poultry that has been under continuous organic management beginning no later than the second day of life.
- Dairy animals **must** be under continuous organic management beginning no later than one year prior to production of certified milk, or managed under the provisions of the whole herd conversion.

Whole dairy herd conversion. When an entire, distinct herd is converted to organic production, these rules **must** be followed:

--For the first 9 months of the year, the producer **must** provide a minimum of 80-percent feed that is either organic or raised from land included in the organic system plan and managed in compliance with organic crop requirements.

--For the final 3 months, only organic feed is to be provided.

--Once an entire, distinct herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.

- Breeder animals may be brought from a nonorganic operation at any time. However, if the animals are gestating and the offspring are to organically raised, the breeder stock **must** be brought under continuous organic management no later than the last third of gestation.

§205.236(b) Does the certifying agent **prohibit** its clients from:

- Producing organic livestock products from animals removed from an organic operation and subsequently managed on a nonorganic operation; and
- Representing breeder or dairy stock that has not been under continuous organic management from the last third of gestation as organically produced slaughter stock?

Guidance: Breeder stock, including dairy animals, may not be switched between organic and nonorganic management. Slaughter stock **must** have been born to an organic mother except for poultry.

§205.236(c) Does the certifying agent **require** its clients to maintain records sufficient to preserve the identity of all organically managed animals and edible and nonedible animal products?

Guidance: Producer's record of births, identification, and sales receipts. The agent may have guidelines for on-site inspector.

Livestock feed

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.237(a) Does the certifying agent **require** its clients to provide livestock with a total feed ration composed of agricultural products, including pasture and forage, that are organically produced and, if applicable, handled?

Guidance: Nonsynthetic substances and synthetic substances that are allowed under the National List may be used as feed additives and supplements.

§205.237(b) Does the certifying agent **prohibit** its clients from:

- Using animal drugs, including hormones, to promote growth;
- Providing feed supplements or additives in amounts above those needed for adequate nutrition and health maintenance for the species at its specific stage of life;
- Feeding plastic pellets for roughage;
- Feeding formulas containing urea or manure;
- Feeding mammalian or poultry slaughter by-products to mammals or poultry; and
- Using feed, feed additives, and feed supplements in violation of the Federal Food, Drug, and Cosmetic Act?

Guidance: The on-site inspector should review the producer's receipts to verify type and quantity of feed purchased.

Livestock health care practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.238(a) Does the certifying agent **require** its clients to establish and maintain preventive livestock health care practices including:

- Selection of species and types of livestock with regard to suitability for site-specific conditions and resistance to prevalent diseases and parasites;
- Provision of a feed ration sufficient to meet nutritional requirements, including vitamins, minerals, protein and/or amino acids, fatty acids, energy sources, and fiber (ruminants);
- Establishment of appropriate housing, pasture conditions, and sanitation practices to minimize the occurrence and spread of diseases and parasite;
- Provision of conditions which allow for exercise, freedom of movement, and reduction of stress appropriate to the species;
- Performance of physical alterations as needed to promote the animal's welfare and in a manner that minimizes pain and stress; and
- Administration of vaccines and other veterinary biologics?

Guidance: The following practices, §205.238(b), are **not** required. This section is provided as guidance to auditors, certifying agents, and producers to provide examples to verify the requirements stated in (a) above.

§205.238(b) When preventive practices and veterinary biologics are inadequate to prevent sickness, does the certifying agent **allow** its clients to administer allowed synthetic medications?

Does the certifying agent **allow** its clients to administer allowed synthetic parasiticides to:

- Breeder stock, when used prior to the last third of gestation but not during lactation for progeny that are organically managed; and
- Dairy stock, when used a minimum of 90 days prior to production of organic milk?

§205.238(c) Does the certifying agent **prohibit** its clients from:

- Administering an antibiotic, prohibited synthetic substance, or prohibited nonsynthetic substance to organically managed livestock;
- Administering any drug, other than vaccinations, in the absence of illness;
- Administering hormones for growth promotion;
- Administering synthetic parasiticides on a routine basis;
- Administering synthetic parasiticides to slaughter stock;

- Administering animal drugs in violation of the Federal Food, Drug, and Cosmetic Act; and
- Withholding medical treatment from a sick animal in an attempt to preserve its organic status?

Guidance: The on-site inspector should review the clients' receipts to verify the type and quantity of purchased animal health care materials.

Livestock living conditions

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.239(a) Does the certifying agent **require** its clients to establish and maintain livestock living conditions that accommodate the health and natural behavior of animals, including:

- Access to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment;
- Access to pasture for ruminants;
- Appropriate clean, dry bedding that, as applicable, complies with the feed requirements of §205.237 -- see above; and
- Shelter designed to allow for:
 - Natural maintenance, comfort behaviors, and opportunity to exercise?
 - Temperature level, ventilation, and air circulation suitable to the species?
 - Reduction of potential for livestock injury?

Guidance: The following practices are **not** required. This section, 205.239(b), is provided as guidance to auditors, certifying agents, and producers to provide examples to verify the requirements stated in (a) above.

§205.239(b) Does the certifying agent **allow** its clients to provide temporary confinement due to:

- Inclement weather;
- The animal's stage of production;
- Conditions under which the health, safety, or well being of the animal could be jeopardized;

and

- Risk to soil or water quality?

§205.239(c) Does the certifying agent **require** its clients to manage manure in a manner that does not contribute to contamination of crops, soil, or water by plant nutrients, heavy metals, or pathogenic organisms and optimizes recycling of nutrients?

§§205.240 – 205.269 [Reserved]

Organic handling requirements

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.270(a) Does the certifying agent allow its clients to use mechanical or biological methods to process an organically produced agricultural product?

§205.270(b) Does the certifying agent **allow** its clients to use nonagricultural substances allowed under §205.605 and nonorganically produced agricultural products allowed under §205.606 (National List):

- In or on a processed product labeled as “organic” pursuant to §205.301(b); and
- In or on a processed product labeled as “made with organic (specific ingredients or food group(s))” pursuant to §205.301(c)?

§205.270(c) Does the certifying agent **prohibit** its clients from using in or on an agricultural product labeled organic:

- Excluded practices (GMOs) and irradiation; and
- A volatile synthetic solvent or other synthetic processing aid not in the National List?

Exception: Nonorganic ingredients in products labeled “made with organic (specific ingredients or food group(s))” are not subject to this requirement.

Guidance: The on-site inspector should review hard copies of handler’s receipts and/or documentation of search under commercial availability requirements.

Facility pest management practice standard

Guidance: Certifying agent **must** provide all applicable standards to its clients, and auditors **must** verify that the certifying agent has ensured that the standards have been met. Auditors will do this by verifying the information in the application and inspection report.

§205.271(a) Does the certifying agent **require** its clients to use management practices to prevent pests, including but not limited to:

- Removal of pest habitat, food sources, and breeding areas;
- Prevention of access to handling facilities; and
- Management of environmental factors, such as temperature, light, humidity, atmosphere, and air circulation to prevent pest reproduction?

Guidance: The following practices, §205.271(b), are **not** required. This section is provided as guidance to auditors, certifying agents, and producers to provide examples to verify the requirements stated in (a) above.

§205.271(b) Does the certifying agent **allow** its clients to control pests through:

- Mechanical or physical controls, including but not limited to traps, light, or sound; and
- Lures and repellents using nonsynthetic or allowed synthetic substances?

§205.271(c) If the practices provided for in (a) and (b) are not effective to prevent or control pests, does the certifying agent **allow** its clients to apply a nonsynthetic or allowed synthetic substance?

§205.271(d) If the practices provided for in (a), (b), and (c) are not effective to prevent or control pests, does the certifying agent **allow** its clients to apply a synthetic substance not on the National List, provided that the clients and the certifying agent agree upon:

- The substance;
- Method of application; and
- Measures to be taken to prevent contact of the organically produced products or ingredients with the substances used?

§205.271(e) Does the certifying agent **require** clients who apply a nonsynthetic or synthetic substance to prevent or control pests to update their organic system plans accordingly?

§205.271(f) Notwithstanding the practices provided for in paragraphs (a), (b), (c), and (d) above, does the certifying agent **allow** its clients to use substances to prevent or control pests as required by Federal, State, or local laws and regulations, provided that measures are taken to prevent contact of the organically produced products or ingredients with the substances used?

Guidance: Certifying agent's standards and implementation guidance.

Commingling and contact with prohibited substance prevention practice standard

Guidance: [Certifying agent's standards and implementation guidance.](#)

§205.272(a) Does the certifying agent **require** its clients to implement measures necessary to prevent the commingling of organic and nonorganic products and protect organic products from contact with prohibited substances?

§205.272(b) Does the certifying agent **prohibit** the handler from:

- Using packaging materials and storage containers or bins that contain a synthetic fungicide, preservative, or fumigant; and
- Reusing any bag or container that has been in contact with any substance in such a manner to compromise the organic integrity of any organically produced product or ingredient placed in those containers?

Exception: Reusable bag or container has been thoroughly cleaned and poses no risk of contact between the organically produced product or ingredient and the synthetic fungicide, preservative, or fumigant.

§§205.273 – 205.289 [Reserved]

Temporary variances

§205.290(a) Does the certifying agent **allow** its clients to receive temporary variances from the requirements in production and handling standards as established by the regulations for the following reasons?

- Natural disaster declared by the Secretary.
- Damage caused by drought, wind, flood, excessive moisture, hail, tornado, earthquake, fire, or other business interruption.
- Practices used for the purpose of conducting research or trials of techniques, varieties, or ingredients used in organic production or handling.

§205.290(b) Does the certifying agent have procedures for writing USDA to recommend a temporary variance from a production or handling standard, provided that the variance is based on one or more of the reasons listed above?

§205.290(d) Does the certifying agent have a procedure, upon notification of the establishment of a temporary variance, of notifying each production and handling operation it certifies to which that temporary variance applies?

§§205.291 – 205.299 [Reserved]

Subpart D – Labels, Labeling, and Market Information

Use of the term, “organic”

§205.300(a) Does the certifying agent **inform** clients of the acceptable use of the term, “organic”?

Does the certifying agent have a verifiable procedure that ensures that clients who use the term “organic” in the labeling of raw or processed agricultural products, including ingredients, have produced and handled these agricultural products in accordance with regulations?

Does the certifying agent have a verifiable procedure that ensures that clients do not use the term, “organic,” in a product label name to modify a nonorganic ingredient in the product?

Guidance: Organic Peach Ice Cream would **not** be allowed when the peaches that flavor the ice cream are not organic. NOP labeling requirements using peach ice cream as an example follow:

- If the ingredients in ice cream are more than 70 percent nonorganic, then the organic ingredients could be stated only on the ingredients list and indicated as “organic.”
- If the ice cream contains 70 percent or more organic ingredients, the product could be labeled Peach Ice Cream -- Made with organic peaches, milk, and sugar.
- If the ice cream contains 95 percent organic ingredients, it could be labeled Organic Ice Cream. If the peaches are organic, it could be labeled Organic Peach Ice Cream.
- It is highly unlikely, but if the ice cream contains 100 percent organic ingredients, it could be labeled 100 Percent Organic Peach Ice Cream.

§205.300(b) Does the certifying agent **inform** its clients of organic export labeling requirements? Does the certifying agent have a verifiable procedure to ensure that clients who produce products to foreign national organic standards or to foreign contract buyer requirements label the shipping containers and shipping documents “For Export Only?” (see §205.307(c)).

§205.300(c) Does the certifying agent **inform** its clients of organic import labeling requirements? Does the certifying agent have a verifiable procedure to ensure that clients who import agricultural product into the United States meet the National Organic Program regulations contained in subpart D (labeling) and subpart E (certification)?

Guidance: §205.300(c) only applies to labeling requirements for “100 percent organic,” “organic,” or “made with organic (specified...).”

§ 205.300(d) Does the certifying agent **inform** its clients of organic livestock feed labeling requirements? Does the certifying agent have a verifiable procedure that ensures that clients who

produce livestock feeds in accordance with the National Organic Program requirements label those products in accordance with the requirements of §205.306?

Product composition

§205.301(a-d) Does the certifying agent **inform** its clients of the following organic labeling requirements? Does the certifying agent have a verifiable procedure that ensures that these requirements are met?

- In order for a product to be labeled “100 percent organic,” it **must** contain 100 percent organic raw or processed agricultural product (ingredients) by weight or fluid volume, excluding water and salt.

Guidance: Other requirements for the labeling of “100 percent organic” products are contained in §205.303.

- In order for a raw or processed agricultural product to be labeled “organic” it **must** contain at least 95 percent organic product (ingredients) by weight or fluid volume, excluding water and salt and the remaining 5 percent of ingredients are:

--Organic, when commercially available; or

--Nonagricultural substances or nonorganically produced agricultural products that are allowed on the National List;

- In order for a processed agricultural product to be labeled “made with organic (specified ingredients or food group(s))” the product **must** contain at least 70 percent organically produced ingredients (by weight or fluid volume, excluding water and salt).

--The remaining ingredients **must** be produced without using excluded methods, sewage sludge, or radiation.

Guidance: Nonorganic ingredients used in a multi-ingredient agricultural product to be sold as “made with organic (specified ingredients or food group(s))” may be produced without regard to paragraphs (4), (5), (6), and (7) of §205.301(f), below.

Guidance: Other requirements for the labeling of multi-ingredient agricultural product to be sold as “made with organic (specified ingredients or food group(s))” are contained in §205.304.

- In processed products with less than 70 percent organic ingredients, those ingredients that the producer claims are organic **must** be produced and handled in compliance with the regulations. The nonorganic portion of these products may be produced without regard to the regulations. The word “organic” may only be used to identify the ingredient in the ingredients list on the label.

§205.301(e) Does the certifying agent **inform** its clients of labeling requirements for organic livestock feed? Does the certifying agent have a verifiable procedure that ensures that clients producing livestock feed are in compliance with the following standards?

- In order for a livestock feed to be labeled “100 percent organic” it **must** contain 100 percent organically produced raw or processed ingredients.
- In order for a livestock feed to be labeled “organic” it **must** meet the requirements laid out in §205.237 above, which are:
 - “Organic” livestock feed may include allowed synthetic and nonsynthetic substances listed on the National List as feed additives and supplements.
 - “Organic” livestock feed **must** not include drugs and hormones as growth promoters, additives and supplements above nutritional needs, plastic pellets, urea and manure.
 - “Organic” livestock feed **must** not include mammalian or poultry slaughter by-products if it is to be fed to mammals or poultry.
 - “Organic” livestock feed, feed additives, and feed supplements **must** be in compliance with Federal Food, Drug, and Cosmetic Act.

§205.301(f) Does the certifying agent **inform** its clients of the following prohibited practices? Does the certifying agent have a verifiable procedure that ensures that clients who label agricultural products as “100 percent organic” or “organic” and/or who label all ingredients identified as “organic” in the ingredient statement of any product do so without the use of :

- (1) Excluded methods (GMOs);
- (2) Sewage sludge;
- (3) Ionizing radiation;
- (4) Processing aids not approved on the National List;

Guidance: In addition to the restriction above, all products labeled as “100 percent organic,” if processed, **must** be processed using organically produced processing aids.

- (5) Sulfites, nitrates, or nitrites added during the production or handling process;

Guidance: Wine containing added sulfites may be labeled “made with organic grapes.”

- (6) Nonorganic ingredients when organic ingredients are available; and
- (7) Organic and nonorganic forms of the same ingredient in the product?

Calculating the percentage of organically produced ingredients

§205.302(a) Does the certifying agent **inform** its clients of the requirements for calculating the percentage of organically produced ingredients? Does the certifying agent have a verifiable procedure that ensures that clients calculate the percentage of all organic ingredients in an agricultural product labeled “organic,” or that includes organic ingredients by the following method?

Guidance: Water and salt are always excluded from the formulations.

- For solids--divide the total net weight of combined organic ingredients at formulation by the total weight of all ingredients.
- For liquids--divide the fluid volume of all organic ingredients by the fluid volume of all ingredients if the product and ingredients are liquid.

Guidance: If the liquid product is identified on the principal display panel or information panel as being reconstituted from concentrates, the calculation should be made on the basis of single-strength concentrations of the ingredients and finished product.

- For products containing organically produced solid and liquid ingredients--divide the combined weight of the solid ingredients and the weight of the liquid ingredients by the total weight (excluding water and salt) of all ingredients.

§205.302(b) Does the certifying agent **inform** its clients of the requirement to round down to the nearest whole number when labeling the percentages of organically produced ingredients in an agricultural product? Does the certifying agent have a verifiable procedure to ensure that clients meet this requirement?

§205.302(c) Does the certifying agent have a verifiable procedure that ensures that its handler clients determine the correct percentage of organic agricultural product when the handler puts that percentage on the label, principal display panel, or ingredient statement of a consumer package?

Guidance: The handler may use information provided by the certified operation in determining the percentage.

Packaged products labeled “100 percent organic” or “organic”

§205.303(a)(1-5) Does the certifying agent have a verifiable procedure to determine that:

- The percentage statement of organic ingredients on the product package appears in letters that do not exceed one-half the size of the largest type on the panel on which the statement is displayed, and appears in its entirety in the same type size, style, and color without highlighting;

- Clients who produce the finished product maintain records verifying the organic certification of the operations producing organic ingredients; and
- Clients do not individually display certifier seals or marks more prominently than the USDA seal?

§205.303(b)(1-2) Does the certifying agent have a verifiable procedure to ensure that clients who produce or handle products labeled “organic” denote each organic ingredient in the ingredient statement with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced?

Guidance: Water or salt cannot be identified as organic.

Does the certifying agent have a verifiable procedure to ensure that on the information panel, below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by...,” or similar phrase, the name of the certifying agent that certified the handler of the finished product is identified?

Guidance: Product labels may also display the business address, Internet address, or telephone number of the certifying agent on any product labeled “100 percent organic” or “organic.”

Guidance: Many activities undertaken by a client with regard to this section are permissive. Agricultural products in packages labeled as “100 percent organic” or “organic” may display on the principal display panel, information panel, and any other panel of the package and on any labeling or market information concerning the product, the following:

- The term, “100 percent organic” or “organic,” as applicable, to modify the name of the product.
- For products labeled “organic,” the percentage of organic ingredients in the product.
- The term, “organic,” to identify the organic ingredients in multi-ingredient products labeled “100 percent organic.”
- The USDA seal.
- The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the finished product and any other certifying agent which certified production or handling operations producing raw organic product or organic ingredients used in the finished product.

Packaged products labeled “made with organic (specified ingredients or food group(s))”

§205.304(a)(1)(i-iii) Does the certifying agent have a verifiable procedure to ensure that a client who puts the “made with organic (specified ingredients)” statement on a product package:

- Does not list more than three organically produced ingredients?
- Does not list more than three of the following food groups: beans, fish, fruits, grains, herbs, meats, nuts, oils, poultry, seeds, spices, sweeteners, and vegetables or processed milk products and that all ingredients of each listed food group are organically produced?
- Displays ingredient or group description in letters that do not exceed one-half the size of the largest type size on the panel and appears in its entirety in the same type size, style, and color without highlighting?

§205.304(a)(2) Does the certifying agent have a verifiable procedure to ensure that the size of the percentage statement does not exceed one-half the size of the largest type size on the panel on which the statement is displayed and that it appears in its entirety in the same type size, style, and color without highlighting?

§205.304(b)(1) Does the certifying agent have a verifiable procedure to ensure that, for products labeled “made with organic (specified ingredients or food group(s)),” each organic ingredient in the ingredient statement is identified with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced?

Guidance: Water or salt cannot be identified as organic.

§205.304(b)(2) Does the certifying agent have a verifiable procedure to ensure that the name of the certifying agent that certified the handler of the finished product appears on the information panel below the information identifying the handler or distributor of the product and preceded by the statement, “Certified organic by...,” or a similar phrase?

Guidance: Product labels may also display the business address, Internet address, or telephone number of the certifying agent.

§205.304(c) Does the certifying agent have a verifiable procedure to ensure that packages labeled “made with organic (specified ingredients or food group(s))” do not display the USDA seal?

Guidance: Some activities undertaken by applicants in regard to this section are permissive. Agricultural products in packages labeled “made with organic (specified ingredients or food group(s))” may display on the principal display panel, information panel, and any other panel and on any labeling or market information concerning the product the following information providing all other conditions of §205.304 are met:

- A statement, “made with organic (specified ingredients).”
- A statement, “made with organic (specified food groups).”

- The seal, logo, or other identifying mark of the certifying agent that certified the handler of the finished product.

Multingredient packaged products with less than 70 percent organically produced ingredients

§205.305 Does the certifying agent have a verifiable procedure to ensure that when an agricultural product contains less than 70 percent organically produced ingredients, the client does the following?

- Identifies each organically produced ingredient in the ingredient statement with the word, “organic,” or with an asterisk or other reference mark which is defined below the ingredient statement to indicate the ingredient is organically produced.
- Displays the product’s percentage of organic contents on the information panel when the organically produced ingredients are identified in the ingredient statement.
- Does NOT display the USDA seal or any certifying agent seal, logo, or other identifying mark which represents organic certification of a product or product ingredients?

Labeling of livestock feed

§205.306(a)(1-4) Does the certifying agent have a verifiable procedure to ensure that certifier seals or marks are not individually displayed more prominently than the USDA seal?

Guidance: Water or salt cannot be identified as organic.

Guidance: Many activities undertaken by a client in regard to this section are permissive. Livestock feed products labeled as “100 percent organic” or “organic” may display on the package and on any labeling or market information concerning the product the following:

- The statement, “100 percent organic” or “organic,” as applicable, to modify the name of the feed product.
- The USDA seal.
- The seal, logo, or other identifying mark of the certifying agent which certified the production or handling operation producing the raw or processed organic ingredients used in the finished product.
- The word, “organic,” or an asterisk or other reference mark which is defined on the package to identify ingredients that are organically produced.

§205.306(b)(1) Does the certifying agent have a verifiable procedure to ensure that packages containing livestock feed products labeled as “100 percent organic” or “organic” display the

statement, “Certified organic by...,” or similar phrase followed by the name of the certifying agent that certified the handler of the finished product?

Guidance: The business address, Internet address, or telephone number of the certifying agent may be included in such label.

Labeling of nonretail containers used for only shipping or storage of raw or processed agricultural products labeled as “100 percent organic,” “organic,” or “made with organic (specified ingredients or food group(s))”

§205.307 Does the certifying agent have a verifiable procedure to ensure that nonretail containers used to ship or store raw or processed agricultural product labeled as containing organic ingredients meet the following requirements?

- Containers display the production lot number of the product if applicable.
- If destined for export, containers are clearly marked “For Export Only.” Proof of such container marking for export is maintained by the handler in accordance with recordkeeping requirements for exempt and excluded operations under §205.101, National Organic Program regulations.

Guidance: Many activities undertaken by a client in regard to this section are permissive. Nonretail containers used only for shipping or storage of raw or processed agricultural products labeled as “organic” may display the following terms or marks, as applicable to the specific label:

- The name and contact information of the certifying agent which certified the handler which assembled the final product.
- Identification of the product as organic.
- Special handling instructions needed to maintain the organic integrity of the product.
- The USDA seal.
- The seal, logo, or other identifying mark of the certifying agent that certified the organic production or handling operation that produced or handled the finished product.

Guidance: Shipping containers of domestically produced product labeled as organic intended for export to international markets may be labeled in accordance with any shipping container labeling requirements of the foreign country of destination or the container labeling specifications of a foreign contract buyer.

Agricultural products in other than packaged form at the point of retail sale that are sold as “100 percent organic” or “organic”

§205.308 Does the certifying agent have a verifiable procedure to ensure that agricultural products in other than packaged form that use the terms, “100 percent organic” or “organic,” to modify the name of the product in retail display, labeling, and display containers use the term, “organic,” to identify the organic ingredients listed in the ingredient statement?

Guidance: If the product is prepared in a certified facility, the retail display, labeling, and display containers may use:

- The USDA seal.
- The seal, logo, or other identifying mark of the certifying agent that certified the production or handling operation producing the finished product and any other certifying agent which certified operations producing raw organic product or organic ingredients used in the finished product.

Does the certifying agent have a verifiable procedure to ensure that certifier seals or marks are not individually displayed more prominently than the USDA seal?

Agricultural products in other than packaged form at the point of retail sale that are sold as “made with organic (specified ingredients or food group(s))”

§205.309 Does the certifying agent have a verifiable procedure to ensure that agricultural products in other than packaged form, containing between 70 and 95 percent organically produced ingredients, that use the phrase “made with organic (specified ingredients or food group(s))” to modify the name of the product in retail display, labeling, and display containers meet the following requirements?

- No more than three organic ingredients or food groups may be identified.
- The organic ingredients are identified as “organic” in any display of the product’s ingredient statement.

Guidance: If prepared in a certified facility, such agricultural products labeled as "made with organic (specified ingredients or food group(s))" in retail displays, display containers, and market information may display the certifying agent’s seal, logo, or other identifying mark.

Agricultural products produced on an exempt or excluded operation

§205.310 Does the certifying agent **inform** exempt and excluded operations that an agricultural product organically produced or handled on such operations **must not**:

- Display the USDA seal or any certifying agent’s seal or other identifying mark which represents the exempt or excluded operation as a certified organic operation; or
- Be represented as a certified organic product or certified organic ingredient to any buyer?

Guidance: An agricultural product organically produced or handled on an exempt or excluded operation may be identified as an organic product or organic ingredient in a multiingredient product produced by the exempt or excluded operation.

Does the certifying agent **inform** exempt and excluded operations that an agricultural product or ingredient organically produced or handled on such operations **must not** be identified or represented as "organic" in a product processed by others?

Guidance: Such product is subject to requirements specified in §205.300(a) [use of the term "organic"] and §205.301(f)(1) through (7) [allowed and prohibited materials and practices].

Guidance: Determination of compliance with §205.310 is beyond the scope of the accreditation audit.

USDA seal

§205.311(a) Does the certifying agent have a verifiable procedure to ensure that its clients use the USDA seal only for raw or processed agricultural products meeting the requirements for "100 percent organic" or "organic," as described in the labeling regulations?

§205.311(b) Does the certifying agent have a verifiable procedure to ensure that a client replicates the form and design of the USDA seal according to the following requirements?

- On a white background with a brown outer circle and with the term, "USDA," in green overlaying a white upper semicircle and with the term, "organic," in white overlaying the green lower half circle; or
- On a white or transparent background with black outer circle and black "USDA" on a white or transparent upper half of the circle with a contrasting white or transparent "organic" on the black lower half circle.
- The green or black lower half circle may have four light lines running from left to right and disappearing at the point on the right horizon to resemble a cultivated field.

Guidance: Does the certifying agent have a procedure that requires clients to submit to them copies of all labels for review?

§§ 205.312-205.399 [Reserved]

Subpart E – Certification

General requirements for certification

Guidance: Verify in documents provided to clients.

§205.400 Does the certifying agent **require** its clients to:

- Comply with the applicable organic production and handling regulations;
- Establish, implement, and update annually an organic production or handling system plan;
- Permit on-site inspections with complete access to the production or handling operation, including noncertified production and handling areas, structures, and offices;
- Maintain all records applicable to the organic operation for not less than 5 years beyond their creation and allow authorized representatives of the Secretary, the applicable State official, and the certifying agent access to such records during normal business hours for review and copying to determine compliance with the regulations;
- Submit the applicable fees charged by the certifying agent; and
- Immediately notify the certifying agent concerning any:
 - Application, including drift, of a prohibited substance to any field, production unit, site, facility, livestock, or product that is part of an operation; and
 - Change in a certified operation or any portion of a certified operation that may affect its compliance with the regulations?

Application for certification

§205.401 Does the certifying agent **require** its clients to submit an application, and does the application include the following:

- An organic production or handling system plan?
- The name of the person completing the application; the applicant's business name, address, and telephone number; and, when the applicant is a corporation, the name, address, and telephone number of the person authorized to act on the applicant's behalf?
- The name(s) of any organic certifying agent(s) to which application has previously been made; the year(s) of application; the outcome of the application(s) submission, including, when available, a copy of any notification of noncompliance or denial of certification issued to the applicant; and a description of the actions taken by the applicant to correct the noncompliances noted in the notification of noncompliance, including evidence of such correction?
- Other information necessary to determine compliance with the regulations?

Review of application

Guidance: Verify that there is a procedure and that it is followed.

§205.402 Does the certifying agent have a verifiable procedure for accepting and reviewing an application for certification?

Does the procedure include:

- A review to ensure that the application is complete as required in §205.401, above;
- A determination of whether the applicant appears to comply or may be able to comply with the applicable requirements of the production and handling standards;
- Verification that an applicant who previously applied to another certifying agent and received a notification of noncompliance or denial of certification has submitted documentation to support the correction of any noncompliances identified in the notification of noncompliance or denial of certification; and
- The scheduling of an on-site inspection of the operation to determine whether the applicant qualifies for certification if the review of application materials reveals that the production or handling operation may be in compliance with the applicable requirements?

Does the certifying agent's procedure include, within a reasonable time:

- A review of the application materials received and communication of the findings to the applicant;
- Providing the applicant with a copy of any on-site inspection reports, as approved by the certifying agent; and
- Providing the applicant with a copy of the test results for any samples taken by an inspector?

Does the certifying agent **inform** its clients that:

- They may withdraw their application at any time;
- They will be held liable for the costs of services provided up to the time of withdrawal of the application; and
- If they voluntarily withdraw their application prior to the issuance of a notice of noncompliance or certification denial, they will not be issued a notice of noncompliance or certification of denial?

Does the certifying agent have a procedure for a client to follow in withdrawing its application?

Guidance: Auditors verify the provision of information on application withdrawal and the procedure used to withdraw applications via site evaluations.

On-site inspections

Guidance: Verify that there is a procedure and that it is followed.

§205.403(a) Does the certifying agent conduct an initial on-site inspection of each production unit, facility, and site that is included in an operation for which certification is requested?

Does the certifying agent conduct an on-site inspection annually for each certified operation to determine whether to approve the request for certification or whether the certification of the operation should continue?

Does the certifying agent's procedure include a provision to conduct additional on-site inspections of applicants for certification and certified operations to determine compliance with the regulations, and does the certifying agent **inform** its clients of that provision?

Do the certifying agent's provisions state that additional inspections may be announced or unannounced at the discretion of the certifying agent or as required by the AMS Administrator or State official and does the certifying agent **inform** its clients of that provision?

Guidance: The AMS Administrator or State official may require that additional inspections be performed by the certifying agent for the purpose of determining compliance with the regulations.

§205.403(b) Is the initial on-site inspection conducted within a reasonable time following a determination that the applicant appears to comply or may be able to comply with the production and handling requirements?

Are there provisions for delaying the initial inspection for up to 6 months to comply with the requirement that the inspection be conducted when the land, facilities, and activities that demonstrate compliance or capacity to comply can be observed?

Guidance: Verify that there is a procedure and that it is followed.

Are all on-site inspections conducted when an authorized representative of the operation who is knowledgeable about the operation is present and at a time when land, facilities, and activities that demonstrate the operation's compliance with or capability to comply with the production and handling requirements can be observed?

Guidance: This requirement does not apply to unannounced on-site inspections.

§205.403(c) Do the certifying agent's procedures ensure that the on-site inspection of an operation verifies:

- The operation's compliance or capability to comply with the regulations;
- That the information, including the organic production or handling system plan, accurately reflects the practices used or to be used by the applicant or by the certified operation; and
- That prohibited substances have not been and are not being applied to the operation through means which, at the discretion of the certifying agent, may include the collection and testing of soil; water; waste; seeds; plant tissue; and plant, animal, and processed products samples?

§205.403(d) Does the certifying agent's procedure **require** the inspector to conduct an exit interview with an authorized representative of the operation who is knowledgeable about the inspected operation to confirm the accuracy and completeness of inspection observations and information gathered during the on-site inspection?

Does the procedure **require** that the inspector address the need for any additional information as well as any issues of concern?

§205.403(e) Does the certifying agent's procedure **require** that the inspector provide the operation's authorized representative with a receipt for any samples taken by the inspector during the inspection?

Are inspectors informed that they (the inspector) will not be charged for the samples taken?

Do the procedures **require** that the certifying agent send a copy of the on-site inspection report and any test results to the inspected operation?

Granting certification

Guidance: [Verify that there is a procedure and that it is being followed.](#)

§205.404(a) Does the certifying agent's procedure **require**, within a reasonable time after completion of the initial on-site inspection, a review of the on-site inspection report, the results of the analyses of any samples taken, and any additional information requested from or supplied by the applicant?

Does the certifying agent grant certification based on the determination that:

- The applicant is in compliance with its organic system plan and all procedures;
- The activities of the applicant's operation are in compliance with the regulations; and
- The applicant is able to conduct operations in accordance with the plan?

Does the certifying agent include requirements for the correction of minor noncompliances within a specified time period as a condition of continued certification?

§205.404(b) Does the certifying agent issue a certificate of organic operation which specifies the:

- Name and address of the certified operation;
- Effective date of certification;
- Categories of organic operation, including crops, wild crops, livestock, or processed products produced by the certified operation; and
- Name, address, and telephone number of the certifying agent?

§205.404(c) Does the certifying agent **inform** its clients that, once certified, their certification remains in effect until surrendered by the organic operation or suspended or revoked by the certifying agent, the State official, or USDA?

Denial of certification

[Guidance: Verify in procedures and records.](#)

§205.405(a) Does the certifying agent have a procedure to deny certification based on a review of the information specified in §205.402 or §205.403?

Does the certifying agent provide a written notification of noncompliance to the applicant including:

- A description of each noncompliance;
- The facts upon which the notification of noncompliance is based; and
- The date by which the applicant must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible?

[Guidance: When correction of a noncompliance is not possible, a notification of noncompliance and a notification of denial of certification may be combined in a single notification.](#)

§205.405(b) Does the certifying agent **inform** applicants that they may respond to a denial of certification by:

- Correcting noncompliances and submitting a description of the corrective actions taken with supporting documentation;
- Correcting noncompliances and submitting a new application to another certifying agent, which includes a complete application, the notification of noncompliance received from the first certifying agent, and a description of the corrective actions taken with supporting documentation; or

- Submitting written information to the issuing certifying agent to rebut the noncompliance described in the notification of noncompliance.

§205.405(c) After issuance of a notification of noncompliance, does the certifying agent:

- Evaluate the applicant's corrective actions and supporting documentation or the written rebuttal, and then conduct an on-site inspection if necessary and then:
 - Issue the applicant an approval of certification, when the corrective action or rebuttal is sufficient for the applicant to qualify for certification, or
 - Issue the applicant a written notice of denial of certification when the corrective action or rebuttal is not sufficient for the applicant to qualify for certification?
- Issue a written notice of denial of certification to an applicant who fails to respond to the notification of noncompliance?
- Provide notice to the AMS Administrator that certification has been granted or denied?

§205.405(d) Does the certifying agent's notice of denial of certification state the reason(s) for denial and the applicant's right to:

- Reapply for certification pursuant to §§205.401 and 205.405(e);
- Request mediation pursuant to §205.663 or, if applicable, pursuant to a State organic program; or
- File an appeal of the denial of certification pursuant to §205.681 or, if applicable, pursuant to a State organic program?

§205.405(e) Does the certifying agent **inform** clients/applicants who have received a written notification of noncompliance or a written notice of denial of certification of the following?

- They may apply for certification again at any time with any certifying agent.
- When they submit a new application to a certifying agent other than the agent who issued the notification of noncompliance or notice of denial of certification, applicants **must** include a copy of the notification of noncompliance or notice of denial of certification and a description of the actions taken, with supporting documentation, to correct the noncompliances noted in the notification of noncompliance.

Guidance: For §205.405(e) above. A copy of the notice of noncompliance or denial, along with the description of corrective actions, should be sent to the certifying agent who originally issued the notice, if the applicant has submitted a new application to that same certifying agent.

§205.405(f) Does the certifying agent treat the new application from an operation that includes a notification of noncompliance or a notice of denial of certification as a new application and begin a new application process?

§205.405(g) Do the certifying agent's procedures state that, if the agent has reason to believe that an applicant has willfully made a false statement or otherwise purposefully misrepresented the applicant's operation or its compliance with the certification requirements, the certifying agent may deny certification without first issuing a notification of noncompliance?

Continuation of certification

Guidance: Verify procedures during initial accreditation; verify records in surveillance audits.

§205.406(a) Does the certifying agent's procedure **require** the certified operation to pay annual certification fees and submit the following information, as applicable?

- An updated organic production or handling system plan which includes:
 - A summary statement, supported by documentation, detailing any deviations from, changes to, modifications to, or other amendments made to the previous year's organic system plan during the previous year; and
 - Any additions to or deletions from the previous year's organic system plan, intended to be undertaken in the coming year.
- Any additions to or deletions from the information regarding the name, address, and phone numbers provided in the original application.
- An update on the correction of minor noncompliances previously identified by the certifying agent as requiring correction for continued certification.
- Other information as deemed necessary by the certifying agent to determine compliance with the regulations.

§205.406(b) Does the agent's procedure **require**, within a reasonable time after receiving the annual update of information, an on-site inspection?

Guidance: When it is impossible for the certifying agent to conduct the annual on-site inspection following receipt of the certified operation's annual update of information, the certifying agent may allow continuation of certification and issue an updated certificate of organic operation on the basis of the information submitted and the most recent on-site inspection conducted during the previous 12 months, if the annual on-site inspection is conducted within the first 6 months following the certified operation's scheduled date of annual update.

§205.406(c) Does the certifying agent's procedure **require** written notification of noncompliance if the certifying agent has reason to believe, based on the on-site inspection and a

review of the annual updated information, that a certified operation is not complying with the regulations?

§205.406(d) Does the certifying agent issue an updated certificate of organic operation when it determines that the certified operation is complying with the regulations and that any of the information specified on the certificate of organic operation has changed?

§§ 205.407-205.499 [Reserved]

Subpart F - Accreditation

Areas and duration of accreditation

§205.500

[Guidance: Procedural and not applicable for audit.](#)

General requirements for accreditation

§205.501(a) Does the certifying agent:

- Have sufficient expertise in organic production or handling techniques to fully comply with and implement the terms and conditions of the organic certification program established under the regulations;
- Demonstrate the ability to fully comply with the requirements for accreditation set forth in this subpart;

[Guidance: The two sections above are the basis for determining whether to recommend accreditation in the final report.](#)

- Carry out the provisions of the regulations, including the provisions for certification and testing;
- Use a sufficient number of adequately trained personnel, including inspectors and certification review personnel, to comply with and implement the organic certification program;
- Ensure that its responsibly connected persons, employees, and contractors with inspection, analysis, and decision-making responsibilities have sufficient expertise in organic production or handling techniques to successfully perform the duties assigned;
- Conduct an annual performance evaluation of all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make

certification decisions and implement measures to correct any deficiencies in certification services;

- Have an annual program review of its certification activities conducted by the certifying agent's staff, an outside auditor, or a consultant who has expertise to conduct such reviews and implement measures to correct any noncompliances with the regulations that are identified in the evaluation;

Guidance: NOP is considering adding a clarification, "...annual program review that includes addressing complaints, an internal audit, and a management review"...

- Provide sufficient information to persons seeking certification to enable them to comply with the applicable requirements of the regulations;
- Maintain all records required by §205.510(b) and make all such records available for inspection and copying during normal business hours by authorized representatives of the Secretary and the applicable State official;
- Maintain strict confidentiality with respect to the clients under its organic certification program and not disclose to third parties (with the exception of the Secretary or the applicable State official or their authorized representatives) any business-related information concerning any client obtained while implementing the regulations, except as provided for in §205.504(b)(5);
- Prevent conflicts of interest by:
 - Not certifying a production or handling operation if the certifying agent or a responsibly connected party of such certifying agent has or has held a commercial interest in the production or handling operation, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
 - Excluding any person, including contractors, with conflicts of interest from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest or the provision of consulting services, within the 12-month period prior to the application for certification;
 - Not permitting any employee, inspector, contractor, or other personnel to accept payment, gifts, or favors of any kind, other than prescribed fees, from any business inspected;

Guidance: A certifying agent that is a not-for-profit organization with an Internal Revenue Code tax exemption or, in the case of a foreign certifying agent, a comparable recognition of not-for-profit status from its government may accept voluntary labor from certified operations.

- Not giving advice or providing consultancy services to certification applicants or certified operations for overcoming identified barriers to certification;

--Requiring all persons who review applications for certification, perform on-site inspections, review certification documents, evaluate qualifications for certification, make recommendations concerning certification, or make certification decisions and all parties responsibly connected to the certifying agent to complete an annual conflict of interest disclosure report; and

--Ensuring that the decision to certify an operation is made by a person different from those who conducted the review of documents and on-site inspection;

- Reconsider a certified operation's application for certification and, if necessary, perform a new on-site inspection when it is determined, within 12 months of certifying the operation, that any person, including contractors, participating in the certification process has or has had a conflict of interest involving the applicant.

--As covered by §205.501(a)(11)(ii), this means any person with conflicts of interest must be excluded from work, discussions, and decisions in all stages of the certification process and the monitoring of certified production or handling operations for all entities in which such person has or has held a commercial interest, including an immediate family interest, or has provided consulting services within the 12-month period prior to the application for certification.

Guidance: All costs associated with a reconsideration of application, including on-site inspection costs, shall be borne by the certifying agent.

- Refer a certified operation to a different accredited certifying agent for recertification and reimburse the operation for the cost of the recertification when it is determined that the certifying agent or a responsibly connected person had a conflict of interest involving the applicant at the time of application.

--As covered by §205.501(a)(11)(i) any certifying agent or responsibly connected party has a conflict of interest if he/she holds or has held within 12 months prior to certification, a commercial interest (including immediate family interest) in the applicant's production or handling operation, or has provided consulting services to the applicant.

Guidance: All costs associated with a reconsideration of application, including on-site inspection costs, shall be borne by the certifying agent.

- Accept the certification decisions made by another certifying agent accredited or accepted by USDA;
- Refrain from making false or misleading claims about its accreditation status, the USDA accreditation program for certifying agents, or the nature or qualities of products labeled as organically produced;
- Submit to the AMS Administrator a copy of:

--Any notice of denial of certification issued as discussed in §205.405, notification of noncompliance, notification of noncompliance correction, notification of proposed suspension or revocation, and notification of suspension or revocation sent pursuant to the noncompliance procedures stated in §205.662 simultaneously with its issuance; and

--A list, on January 2 of each year, including the name, address, and telephone number of each operation granted certification during the preceding year;

- Charge applicants for certification and certified production and handling operations only those fees and charges for certification activities that it has filed with the AMS Administrator;
- Pay and submit fees to AMS in accordance with §205.640;
- Provide the inspector, prior to each on-site inspection, with previous on-site inspection reports and notify the inspector of its decision regarding certification of the production or handling operation site inspected by the inspector and of any requirements for the correction of minor noncompliances;
- Accept all production or handling applications that fall within its area(s) of accreditation and certify all qualified applicants, to the extent of its administrative capacity to do so without regard to size or membership in any association or group;
- Demonstrate its ability to comply with a State's organic program to certify organic production or handling operations within the State; and
- Comply with, implement, and carry out any other terms and conditions determined by the AMS Administrator to be necessary?

Guidance: NOP is considering the following addition: Inform the AMS Administrator of any change in an accredited operation or portion of an accredited operation that may affect its compliance with the regulations of this part.

§205.501(b) If the certifying agent has established its own seal, logo, or other identifying mark does the certifying agent **inform** its clients that they:

- Are not required to use the certifying agent seal, logo, or other identifying mark on any product sold, labeled, or represented as organically produced as a condition of certification; and
- Are not required to comply with any production or handling practices other than those stated in the regulations in order to use the certifying agent's identifying mark.

Exception: Certifying agents certifying production or handling operations within a State with more restrictive requirements, approved by USDA, shall **require** compliance with such requirements as a condition of use of their identifying mark by such operations.

Guidance: This section is under review by NOP.

§205.501(c) Does the certifying agent agree to the following?

- Hold the Secretary harmless [liable] for any failure on the part of the certifying agent to carry out the provisions of the regulations.

Guidance: The certifying agent **must** promise this on the application form.

- Furnish reasonable security, in an amount and according to such terms as the AMS Administrator may by regulation prescribe, for the purpose of protecting the rights of production and handling operations certified by such certifying agent under the regulations.

Guidance: The NOP has not yet determined what constitutes "reasonable security." Plans are in the works to make interim policy to address this issue.

- Transfer to the AMS Administrator and make available to any applicable State organic program's governing State official all records or copies of records concerning the person's certification activities in the event that the certifying agent dissolves or loses its accreditation.

Exception: Such transfer shall not apply to a merger, sale, or other transfer of ownership of a certifying agent.

Guidance: The certifying agent **must** promise this on the application form.

§205.501(d) Do the certifying agent's documents and records verify that no person is excluded from participation in or denied the benefits of the National Organic Program due to race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, or marital or family status?

§205.502 Applying for accreditation
Covered on the application form

§205.503 Applicant information
Covered on the application form.

§205.504 Evidence of expertise and ability
Refer to the application checklist to ensure that all criteria have been met.

§205.505 Statement of agreement
Covered on the application form.

§205.506 Granting accreditation

Procedural and not applicable to the audit.

§205.507 Denial of accreditation

Procedural and not applicable to the audit.

§205.508 Site evaluations

Procedural and not applicable to the audit.

§205.509 Peer review panel

Procedural and not applicable to the audit.

Annual report, recordkeeping, and renewal of accreditation

§205.510(a) Does the certifying agent have a procedure for submitting annually to the AMS Administrator, on or before the anniversary date of the issuance of the notification of accreditation, the following reports and fees?

- A complete and accurate update of application information and evidence of expertise and ability.
- Information supporting any changes being requested in the areas of accreditation.
- A description of the measures implemented in the previous year and any measures to be implemented in the coming year to satisfy any terms and conditions determined by the AMS Administrator to be necessary, as specified in the most recent notification of accreditation or notice of renewal of accreditation.
- The results of the most recent performance evaluations and annual program review and a description of adjustments to the certifying agent's operation and procedures implemented or to be implemented in response to the performance evaluations and program review.
- The required fees.

§205.510(b) Does the certifying agent maintain records according to the following schedule?

- Records obtained from applicants for certification and certified operations **must** be maintained for at least 5 years beyond their receipt.
- Records created by the certifying agent regarding applicants for certification and certified operations **must** be maintained for at least 10 years beyond their creation.
- Records created or received by the certifying agent pursuant to the accreditation requirements of this subpart F, excluding any records covered by §205.510(b)(2), **must** be maintained for at least 5 years beyond their creation or receipt.

§205.501(c) Renewal of accreditation
[Procedural and not applicable to the audit](#)

§§205.511 -- 205.599 [Reserved]

Subpart G - The National List of Allowed and Prohibited Substances

§205.600 Is the certifying agent using the most current version of the National List?

Does the certifying agent have documented procedures to ensure the substances used by operations seeking certification or renewal are allowed on the National List and are used as recommended?

[Guidance: Verify the most current National List by reviewing the NOP website or contacting the NOP specialist.](#)

§205.601 Synthetic substances allowed for use in organic crop production

§205.602 Nonsynthetic substances prohibited for use in organic crop production

§205.603 Synthetic substances allowed for use in organic livestock production

§205.604 Nonsynthetic substances prohibited for use in organic livestock production

§205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as "organic" or "made with organic (specified ingredients or food group(s))"

§205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic ingredients

Amending the National List

§205.607 Does the certifying agent provide the following information to clients?

- Any person may petition the National Organic Standard Board for the purpose of having a substance evaluated by the Board for recommendation to the Secretary for inclusion on or deletion from the National List.
- A person petitioning for amendment of the National List should request a copy of the petition procedures from USDA at the address below.
- A petition to amend the National List **must** be submitted to: Program Manager, USDA/AMS/TMP/NOP, 1400 Independence Ave, SW, Room 4008-South Building, Washington, DC 20250

[This is NOP's correct address. The address in the regulation is no longer correct.](#)

§§205.608 -- 205.619 [Reserved]

State Organic Programs

§§205.620 -- 205.622

Guidance: Agents **must** ensure that their clients comply with applicable State organic regulations.

§§205.623 – 205.639 [Reserved]

Fees

§205.640 Fees and other charges for accreditation

Procedural and not applicable to audit

§205.641 Payment of fees and other charges

Procedural and not applicable to audit

Fees and other charges for certification

§205.642 Does the certifying agent satisfy the following requirements regarding fees charged to its clients?

- Does the certifying agent provide each client with a fee estimate?
- Does the certifying agent publish a fee schedule?
- Are the fees the same as filed with the AMS Administrator?
- Are fees reasonable?
- Are nonrefundable fee amounts explained in the fee schedule?
- Are the stages at which [nonrefundable] fees become nonrefundable identified in the fee schedule?
- Are there documented policies and procedures for refunding fees?
- Is there a procedure for providing a copy of the fee schedule to persons inquiring about the application process?

Compliance

§205.660 General

Procedural and not applicable to audit

Investigation of certified operations

§205.661 Does the certifying agent have documented policies and procedures for investigating complaints of noncompliance with the regulations?

Does the procedure include notification of the NOP Program Manager of all compliance proceedings and actions taken?

Does the certifying agent **inform** clients that State officials may also investigate?

Noncompliance procedure for certified operations

§205.662(a) *Notification*. Does the certifying agent have documented policies and procedures for notifying certified operations of identified noncompliances with the regulations? Do the notifications include:

- A description of each noncompliance;
- The facts upon which the notification of noncompliance is based; and
- The date by which the certified operation must rebut or correct each noncompliance and submit supporting documentation of each such correction when correction is possible?

§205.662(b) *Resolution*. Does the certifying agent have documented policies and procedures for acknowledging noncompliance resolutions?

§205.662(c) *Proposed suspension or revocation*. Does the certifying agent have documented policies and procedures for proposing the suspension or revocation of certifications of operations that fail to comply with the regulations that include:

- The reasons for the proposed suspension or revocation;
- The proposed effective date of such suspension or revocation;
- The impact of a suspension or revocation on future eligibility for certification; and
- The right to request mediation or to file an appeal?

Guidance: When correction of a noncompliance is not possible, the notification of noncompliance and the proposed suspension or revocation of certification may be combined in one notification.

§205.662(d) *Willful violations*. Does the certifying agent have a procedure that provides for the following type of notification?

- If the certifying agent has reason to believe that a certified operation has **willfully violated** the regulations, the certifying agent shall send the certified operation a notification of proposed suspension or revocation of certification of the entire operation or a portion of the operation, as applicable to the noncompliance.

§205.662(e) *Suspension or revocation.*

Does the certifying agent have a procedure for the following type of notification?

- If the certified operation fails to correct the noncompliance, to resolve the issue through rebuttal or mediation, or to file an appeal, the certifying agent will send a certified operation a written notification of suspension or revocation.

Does the certifying agent have a procedure that states that he (the certifying agent) will not send a notification of suspension or revocation to a certified operation that has requested mediation or filed an appeal, while final resolution of either is pending?

§205.662(f) *Eligibility.* Does the certifying agent **inform** its clients of the following?

- A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. The request **must** be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the regulations.
- A certified operation or a person responsibly connected with an operation whose certification has been revoked will be ineligible to receive certification for a period of 5 years following the date of such revocation.

Exception: The Secretary may, when in the best interest of the certification program, reduce or eliminate the period of ineligibility.

§205.662(g) *Violations of Act.* Does the certifying agent provide the following information to its clients? In addition to suspension or revocation, any certified operation that:

- Knowingly sells or labels a product as organic, except in accordance with the Act, shall be subject to a civil penalty of not more than \$10,000 per violation.
- Makes a false statement under the Act to the Secretary, a State official, or a certifying agent shall be subject to the provisions of section 1001 of title 18, United States Code.

Mediation

Guidance: The certifying agent is not obliged to provide mediation; however, if they choose to use mediation, they **must** follow this procedure.

§205.663 Does the certifying agent have documented policies and procedures for mediation of any dispute with respect to denial of certification or proposed suspension or revocation of certification that includes the following?

- If the certifying agent rejects the request for mediation, the certifying agent has to provide written notification to the operation making the request. The written notification has to advise the operation of the right to request an appeal to the AMS Administrator, pursuant to §205.681, within 30 days of the date of the written notification of rejection of the request for mediation.
- If mediation is accepted by the certifying agent, it has to be conducted by a qualified mediator mutually agreed upon by the parties to the mediation. If a State organic program is in effect, the mediation procedures established in the State organic program will be followed. The parties to the mediation have no more than 30 days to reach an agreement following a mediation session.
- If mediation is unsuccessful, the operation that requested mediation has 30 days from termination of mediation to appeal the certifying agent's decision. Any agreement reached during or as a result of the mediation process has to be in compliance with the regulations.

The Secretary may review any mediated agreement for conformity to the regulations and may reject any agreement or provision not in conformance with the regulations.

§205.664 [Reserved]

§205.665 Noncompliance procedure for certifying agents

Procedural and not applicable to audit

§§205.666 – 205.667 [Reserved]

§205.668 Noncompliance procedures under State organic programs

Procedural and not applicable to audit

§205.669 [Reserved]

Inspection and testing, reporting, and exclusion from sale

Inspection and testing of agricultural product to be sold or labeled “organic”

§205.670(a-c) Does the certifying agent have documented policies and procedures regarding the sampling of its clients' agricultural products or agricultural inputs and the conducting of preharvest and postharvest residue tests on these samples? Do the policies and procedures include the following information?

- All organic agricultural products **must** be made accessible by certified operations for examination by the AMS Administrator, the applicable State official, or the certifying agent.
- The AMS Administrator, applicable governing State official, or the certifying agent may **require** preharvest or postharvest testing of any agricultural **input** used or **organic product** when there is reason to believe that the agricultural input or product has come into contact with a prohibited substance or has been produced using excluded methods. The tests **must** be conducted by the applicable governing State official or the certifying agent at their own expense.
- An inspector representing the AMS Administrator, applicable governing State official, or certifying agent **must** collect the preharvest or postharvest tissue test samples.

--Sample integrity **must** be maintained throughout the chain of custody.

--Residue testing **must** be performed in an accredited laboratory.

--Chemical analysis **must** be made in accordance with the methods described in the most current edition of the Official Methods of Analysis of the AOAC International or other current applicable validated methodology determining the presence of contaminants in agricultural products.

Guidance: Subject to change by NOP. There are no accredited laboratories.

§205.670(d) Does the applicant have documented policies and procedures for providing test results to the AMS Administrator or the State governing official in a timely fashion? Are the results available to the public except for cases of compliance investigations?

§205.670(e) Does the applicant have documented policies and procedures for reporting test results that violate EPA or FDA tolerances to the appropriate agency?

Exclusion from organic sale

§205.671 Does the applicant have documented policies and procedures for excluding agricultural products from organic sale, if tests results are more than 5% of the EPA tolerance or exceed the FDA action level?

Does the certifying agent have documented policies and procedures that **allow** them, the applicable State official, or the AMS Administrator to conduct investigations to determine the cause of prohibited substances?

Emergency pest or disease treatment

§205.672 Does the certifying agent have a policy for dealing with mandated application of prohibited substances and does it provide the information to its clients? Does it include the following requirements?

- When a prohibited substance is applied to a certified operation due to a Federal or State emergency pest or disease treatment program, the operation's certification status is not affected if it otherwise meets the regulations, as long as the following requirements are met:

--Any harvested crop or plant part to be harvested that has contact with a prohibited substance cannot be sold as organic.

--Any livestock that are treated with a prohibited substance or product derived from treated livestock cannot be sold as organically produced.

Exceptions:

- Milk or milk products may be sold as organic beginning 12 months following the last date that the dairy animal was treated with the prohibited substance.
- The offspring of gestating mammalian breeder stock treated with a prohibited substance may be considered organic, **if** the breeder stock was not in the last third of gestation on the date that the breeder stock was treated with the prohibited substance.

§§205.673 – 205.679 [Reserved]

Adverse action appeal process

§205.680 Does the certifying agent **inform** its clients of the following?

- Persons subject to the regulations who believe they are adversely affected by a noncompliance decision of the National Organic Program's Program Manager may appeal such decision to the AMS Administrator.
- Persons subject to the regulations who believe that they are adversely affected by a noncompliance decision of a State organic program may appeal such decision to the State official who will initiate handling of the appeal pursuant to appeal procedures approved by the Secretary.
- Persons subject to the regulations who believe that they are adversely affected by a noncompliance decision of a certifying agent may appeal such decision to the AMS Administrator.

Exception: When the person is subject to an approved State organic program, the appeal **must** be made to the State organic program.

- All written communications between parties involved in appeal proceedings **must** be sent to the recipient's place of business by a delivery service which provides dated return receipts.
- All appeals shall be reviewed, heard, and decided by persons not involved with the decision being appealed.

§205.681 Appeals.

Does the agent have a procedure to implement this regulation and provide the following applicable information to its clients?

- *Certification appeals.* An applicant may appeal a certifying agent's notice of denial of certification, and a certified operation may appeal a certifying agent's notification of proposed suspension or revocation of certification to the AMS Administrator.

Exception: When the applicant or certified operation is subject to an approved State organic program, the appeal **must** be made to the State organic program which will carry out the appeal pursuant to the State organic program's appeal procedures approved by the Secretary.

--If the Administrator or State organic program sustains a certification applicant's or certified operation's appeal of a certifying agent's decision, the applicant will be issued organic certification, or a certified operation will continue its certification, as applicable to the operation. The act of sustaining the appeal shall not be an adverse action subject to appeal by the affected certifying agent.

--If the AMS Administrator or State organic program denies an appeal, a formal administrative proceeding will be initiated to deny, suspend, or revoke the certification. Such proceeding shall be conducted pursuant to the U.S. Department of Agriculture's Uniform Rules of Practice or the State organic program's rules of procedure.

- *Accreditation appeals.* Not applicable.
- *Filing period.* An appeal of a noncompliance decision **must** be filed within the time period provided in the letter of notification or within 30 days from receipt of the notification, whichever occurs later. The appeal will be considered "filed" on the date received by the AMS Administrator or by the State organic program. A decision to deny, suspend, or revoke certification or accreditation will become final and nonappealable unless the decision is appealed in a timely manner.
- *Where and what to file.*

--Appeals to the AMS Administrator **must** be filed in writing and addressed to Administrator, USDA-AMS, Room 3071-S, 1400 Independence Ave, SW, Washington, DC 20250.

--Appeals to the State organic program **must** be filed in writing to the address and person identified in the letter of notification.

--All appeals **must** include a copy of the adverse decision and a statement of the appellant's reasons for believing that the decision was not proper or made in accordance with applicable program regulations, policies, or procedures.

§§205.682-205.689 [Reserved]